

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.8898 of 2017 (O&M)
Decided on : 16.03.2018**

Kinder Singh

... Petitioner

Versus

Punjab Wakf Board and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Sanjeev Kumar Arora, Advocate
for the petitioner.

G.S. Sandhawalia, J. (Oral)

CM-4883-CII-2018

Application for preponing the main petition from 12.07.2018
has been filed.

In view of the averments made in the application, duly
supported by the affidavit of the counsel, the same is allowed.

The main petition is preponed from 12.07.2018 to today itself
and taken up on board.

CM stands disposed of.

CM-5507-CII-2018

Application under Section 151 CPC has been filed for placing
on record better affidavit.

The application is allowed. The better affidavit of the counsel,
in compliance of the order dated 13.03.2018 is taken on record.

CM stands disposed of.

Main petition

The defendant challenges the order dated 21.08.2017 (Annexure P-1), whereby the application for rejection of the plaint under Order 7 Rule 11 CPC has been dismissed and the case has been fixed for plaintiff evidence.

The reasoning adopted by the Civil Court is that since the respondent-Board had also filed a suit before the Wakf Tribunal and on account of an earlier order passed *inter se* the parties, the same was dismissed on 12.02.2009 (Annexure P-2). The Board had approached this Court in **Civil Revision No.2973 of 2009 'Punjab Wakf Board Vs. Kaur Singh and others'** decided on 29.09.2010, wherein while placing reliance upon the judgment of the Apex Court in '**Ramesh Gobindram (dead) through LRs Vs. Sugra Humayun Mirza Wakf, 2010 (2) RCR 266**', it was held that the plaint be ordered to be returned by the parties for presentation before a Court of competent jurisdiction.

It is in such circumstances that the civil suit was again filed before the Civil Court, which has led to the filing of the application under Order 7 Rule 11 CPC and led to the passing of the impugned order.

Admittedly, the said order has become final *inter se* the parties and was not challenged by the petitioner, therefore, it does not lie in the mouth of the defendant-petitioner now to submit that the Civil Court has no jurisdiction. The respondent-Board had no other remedy available, as noticed on an earlier occasion, it had gone to the Tribunal

and been relegated to the Civil Court and, therefore, the order which has been passed does not suffer from any infirmity.

Accordingly, there is no merit and the present revision petition is dismissed in limine.

MARCH 16, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No